



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

FACT SHEET FOR S.B. 1040

public schools; restrooms; reasonable accommodations

Purpose

Requires a public school to provide access to a single-occupancy or employee restroom or changing facility to a person who is unwilling or unable to use a multi-occupancy restroom or changing facility designated for the person's sex or multi-occupancy sleeping quarters. Grants a private cause of action, against the public school, to a person who encounters a person of the opposite sex in specified areas. Designates this legislation as the *Arizona Accommodations for All Children Act (Act)*.

Background

A school district governing board, charter school governing body, the Arizona State Schools for the Deaf and the Blind and, for an accommodation school, the county school superintendent must ensure that a school provides restrooms or bathrooms that are clean and have specified equipment and supplies. A school-provided shower room must also be clean and must meet certain requirements ([A.A.C. R9-8-703](#)).

A *public school* is any public institution established to offer instruction to pupils in preschool programs for children with disabilities, kindergarten programs, elementary grades or secondary grades ([A.R.S. § 15-101](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Reasonable Accommodation

1. Requires a public school to provide a reasonable accommodation to a person who, for any reason, is unwilling or unable to use the following and requests an accommodation from the public school in writing:
 - a) a multi-occupancy restroom or changing facility designated for the person's sex and located in a public school building; or
 - b) multi-occupancy sleeping quarters while attending a public school-sponsored activity.
2. Includes, in *reasonable accommodation*:
 - a) access to a single-occupancy restroom or changing facility; or

- b) use of an employee restroom or changing facility.
- 3. Excludes, from *reasonable accommodation*, access to a restroom or changing facility designated for use by persons of the opposite sex while persons of the opposite sex are, or could be, present.
- 4. Defines *sex* as a person's immutable biological sex as determined by anatomy and genetics existing at the time of the person's birth.
- 5. Specifies that evidence of a person's biological sex includes any government-issued identification document that accurately reflects the person's sex as listed on the person's original birth certificate.
- 6. Specifies that the Act does not prohibit public schools from adopting policies necessary to accommodate:
 - a) persons protected under the federal Americans with Disabilities Act of 1990; or
 - b) young children in need of physical assistance when using restrooms or changing facilities located in public schools.

Legal Remedies

- 7. Grants a private cause of action, against the public school, to a person whose written reasonable accommodation request is denied by the public school, unless the public school can demonstrate that the accommodation would cause an undue hardship.
- 8. Grants a private cause of action against the public school, if the public school gave a person of the opposite sex permission to use the restroom, changing facility or sleeping quarters, to a person who:
 - a) encounters a person of the opposite sex in a multi-occupancy restroom or changing facility designated for the person's sex and located in a public school building; or
 - b) the public school requires to share sleeping quarters with a person of the opposite sex, unless the persons are of the same family.
- 9. Requires claims arising pursuant to the Act to be brought in superior court in the county where the person resides or the public school is located at the time of filing.
- 10. Requires civil actions brought pursuant to the Act to be initiated within two years after the alleged violation occurred.
- 11. Allows persons who are aggrieved under the Act and prevail in court to recover monetary damages for all psychological, emotional and physical harm suffered.
- 12. Entitles, to recovery of reasonable attorney fees and costs, persons who prevail on a claim brought pursuant to the Act.
- 13. Specifies that the Act does not limit other remedies at law or equity that are available to the aggrieved person against the public school.

Miscellaneous

14. Defines *family* as a person's spouse, parent or guardian, child, sibling or grandparent.
15. Defines *restroom* as a facility that includes one or more toilets or urinals.
16. Defines *changing facility* as a facility in which a person may be in a state of undress in the presence of others, including a locker room, changing room or shower room.
17. Designates this legislation as the *Arizona Accommodations for All Children Act*.
18. Becomes effective on the general effective date.

Prepared by Senate Research

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LB/slp